UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Civil Action File No. 90 CV 3973

BERNADINE K. FINDLEY, AS EXECUTRIX OF THE ESTATE OF HILLIARD FINDLEY, ETAL.
vs.
DONALD M. BLINKEN ETAL.

JUDGMENT
S-91-66

CERTIFICATION OF JUDGMENT FOR REGISTRATION IN ANOTHER DISTRICT

I, Robert C. Heinemann, Clerk of the United States District Court for the Eastern District of New York, do hereby certify the annexed to be a true and correct copy of the original judgment entered in the above entitled action on September 3, 1991, as it appears of record in my office, and that

*NO NOTICE OF APPEAL FROM THE SAID JUDGMENT HAS BEEN FILED IN MY OFFICE AND THE TIME FOR THE APPEAL COMMENCED TO RUN ON SEPTEMBER 3, 1991 UPON ENTRY OF THE JUDGMENT.

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of the said Court this 2nd day of October, 1991

ROBERT C. HEINEMANN
Clerk

By: /s/ JEFFREY HOWELL
Deputy Clerk

*When no notice of appeal from the judgment has been filed, insert "no notice of appeal from the said judgment has been filed in my office and the time for appeal commenced to run on [insert date] upon the entry of [If no motion of the character described in Rule 73(a) F.R.C.P. was filed, here insert 'the judgment', otherwise describe the nature of the order from the entry of which time for appeal is computed under that rule.] If an appeal was taken, insert "a notice of appeal from the said judgment was filed in my office on [insert date] and the judgment was affirmed by mandate of the Court of Appeals issued [insert date]" or "a notice of appeal from the said judgment was filed in my office on [insert date] and the appeal was dismissed by the [insert 'Court of Appeals' or 'District Court'] on [insert date]", as the case may be.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF
NEW YORK and
SOUTHERN DISTRICT OF
NEW YORK

In re JOINT EASTERN AND
SOUTHERN DISTRICTS ASBESTOS
LITIGATION

UNITED STATES BANKRUPTCY
COURT
SOUTHERN DISTRICT OF
NEW YORK

In re JOHNS-MANVILLE
CORPORATION, *et al.*

Debtors.

BERNADINE K. FINDLEY, as
Executrix of the Estate of
HILLIARD FINDLEY, *et al*

Plaintiffs,

against

DONALD M. BLINKEN, *et al*

Defendants.

NYAL
Index No. 40000
S-91-66

In Proceedings for
A Reorganization
Under Chapter 11.
Case Nos.
82B 11656 (BRL)
through
82B 11676 (BRL)
Inclusive

C.A. No. 90-3973
(E.D.N.Y.)
C.A. No. 90-7158
(S.D.N.Y.)

JUDGMENT OF CIVIL CONTEMPT OF JAMES WALKER

This hearing on an Order to Show Cause came on before the Court, Honorable Jack B. Weinstein, District Judge, presiding, and the Court having read the pleadings of the parties and the issues having been heard and a decision having been duly rendered,

IT IS ORDERED AND ADJUDGED

That the Respondent, James Walker ("Walker"), has previously received copies of the Court's Orders dated November 23,

1990 and February 13, 1991 and knew that they restrained him from instituting and pursing any execution or enforcement of judgment actions against the Trust and/or its assets.

The Court issued an Order to Show Cause on April 19, 1991 which was returnable at 9:30 a.m. on April 23, 1991. The Court finds that Walker was served with copies of the Order to Show Cause personally, via telecopier, and by overnight mail. On April 23, 1991, the Court held a hearing on this matter at which Walker did not appear.

The institution of the citation action in *Handley v. Manville Personal Injury Settlement Trust*, No. 80 L 93 (Ill. Cir. Ct., McLean County) and *Betts v. Manville Personal Injury Settlement Trust*, No. 79 L 147 (Ill. Cir. Ct., McLean County) (the "Actions") against Bankers Trust Company violates this Court's Orders dated November 23, 1990 and February 13, 1991 and the stays set forth therein.

As a result, Walker is in civil contempt for knowingly violating this Court's November 23, 1990 and February 13, 1991 Orders, which stayed execution or enforcement of judgment actions against the Trust and/or its assets. Walker has been ordered by this Court to immediately dismiss the citation actions against Bankers Trust Company in the Actions. Walker has also been ordered to immediately take all necessary steps to have the *ex parte* judgments entered against Bankers Trust Company in the Actions vacated and to have them and all other actions taken against Bankers Trust Company in the Action, including the garnishment summonses issued to Chase Manhattan Bank, Continental Bank, LaSalle National Bank, Harris Trust and Savings Bank and First National Bank of Chicago, declared null and void. Walker has also been ordered to serve both the Trust and Bankers Trust Company with copies of any motions to vacate and any orders vacating the aforesaid judgments, and with copies of any motions to dismiss the citation actions and withdraw the garnish-

ment summonses and any orders dismissing the citation actions and withdrawing the garnishment summonses.

With respect to sanctions, this matter has been referred to the Honorable John L. Caden, United States Magistrate, to determine whether sanctions, if any, should be imposed against Walker and, if so, in what amount. The Magistrate has also been asked to determine, *inter alia*, whether further sanctions should be imposed if Walker fails to obey this Court's Order.

Dated at Brooklyn, New York, this 24th day of April, 1991.

/s/ J. ROBERT C. HEINEMANN

Clerk of Court

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF
NEW YORK and
SOUTHERN DISTRICT OF
NEW YORK

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Plaintiffs,

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Defendants.

FILED
In Clerk's Office
U.S. District Court
E.D.N.Y.
Sep. 3, 1991
Time: A.M.
P.M.

NYAL
Index No. 40000

S-91-66

In Proceedings for
A Reorganization
Under Chapter 11.
Case Nos. 82B 11656
(BRL) through
82B 11676 (BRL)
Inclusive

C.A. No. 90-3973
(E.D.N.Y.)
C.A. No. 90-7158
(S.D.N.Y.)

JUDGMENT ON DECISION BY THE COURT

This action came on for hearing before the Court, the Honorable John L. Caden, United States Magistrate Judge, presiding, and the issues having been duly heard and a decision having been rendered,

IT IS ORDERED AND ADJUDGED that Manville Personal Injury Settlement Trust recover of James B. Walker the sum of $52,085.30 pursuant to Order dated May 13, 1991 (attached hereto as Exhibit A) with interest thereon at the rate of 6.07

percent from May 13, 1991, and the sum of $29,569.71 pursuant to Order dated June 10, 1991 (attached hereto as Exhibit B) with interest thereon at the rate of 6.09 percent from June 10, 1991.

Dated at Brooklyn, New York, this 30th day of August, 1991.

/s/ ROBERT C. HEINEMANN

Clerk of Court

A TRUE COPY
DATED OCT 02, 1991
Robert C. Heinemann
by /s/ Jeffrey Howell
Deputy Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK and
SOUTHERN DISTRICT OF NEW YORK

In re JOINT EASTERN AND SOUTHERN DISTRICTS ASBESTOS LITIGATION

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In Proceedings for A Reorganization Under Chapter 11. Case Nos. 82B 11656 (BRL) through 82B 11676 (BRL) Inclusive

C.A. No. 90-3973 (E.D.N.Y.)
C.A. No. 90-7158 (S.D.N.Y.)

ORDER

THIS MATTER came before the Court on the Memorandum of the Manville Personal Injury Settlement Trust (the Trust) in support of the award of attorneys' fees and costs incurred by the Trust and Bankers Trust Company in connection with the civil contempt proceedings against James Walker. Pursuant to a Master Custodian Agreement, the Trust must indemnify Bankers Trust Company for its attorneys' fees and costs incurred herein.

This Court held a hearing in this matter on April 29, 1991 at which time the Court found, *inter alia*, that Walker was previ-

ously served with copies of Judge Weinstein's April 24, 1991 Order, the Judgment of Civil Contempt of James Walker, together with the April 23, 1991 Transcript of Proceedings before Judge Weinstein, as well as the Notice of the April 29, 1991 Hearing before this Court, such service being accomplished personally, by telecopier, and by overnight mail.

On April 30, 1991, this Court ordered that Walker be assessed a fine of $1,000 per day for each day he continues not to comply with Judge Weinstein's April 24, 1991 Order, the fine to begin after service of this Court's April 30 Order is made upon Walker by telecopier, overnight mail or by personal service. The Court further ordered that by May 7, 1991, written submissions, including supporting affidavits, should be filed and served on Walker setting forth the Costs, expenses and attorneys' fees which the Trust and Bankers Trust Company had incurred as a result of Walker's contemptuous conduct herein. The Court also ordered that written submissions be filed by May 7, 1991 setting forth whether this Court should refer the finding of contempt and the proceedings and record herein to the Illinois Attorney Registration and Disciplinary Commission.

The Court has reviewed the Memorandum filed by the Trust together with the attached exhibits. These exhibits include an Affidavit by the Trust General Counsel reflecting Trust attorney fee time and costs in the amount of $4,014 and $690.00 respectively. The exhibits also include an Affidavit by Stephen E. Frankel, Esq., an attorney retained by the Trust and Bankers Trust Company in support of legal fees in the amount of $43,154.50 and expenses in the amount of $4,226.80 for fees and expenses of Mr. Frankel's law firm, another law firm retained by Bankers Trust Company, and the in-house attorneys' fees of Bankers Trust Company.

Pursuant to the Master Custodian Agreement between the Trust and Bankers Trust Company, the Trust is required to in-

demnify Bankers Trust Company for all attorneys' fees and expenses incurred pursuant to the Master Custodian Agreement.

The Austern and Frankel Affidavits itemize the attorney time and costs incurred.

Based on the foregoing, the Court awards attorneys' fees and costs to the Trust in the total amount of $47,168.50 (attorneys fees) and $4,916.80 (costs), and directs the Trust to submit to this Court on or before May 31, 1991, an additional application, with supporting affidavits, for any additional attorneys' fees and costs incurred in connection with this matter after April 24, 1991.

In addition, the Court directs that the Trust forward the entire record in this matter, including this Order, to the Illinois Attorney Registration and Disciplinary Commission for such action as the Commission may deem appropriate.

Dated: May 13, 1991
Brooklyn, New York

/s/ JOHN CADEN

United States Magistrate Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK and
SOUTHERN DISTRICT OF NEW YORK

In re JOINT EASTERN AND SOUTHERN DISTRICTS ASBESTOS LITIGATION

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
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C.A. No. 90-3973 (E.D.N.Y.)
C.A. No. 90-7158 (S.D.N.Y.)

ORDER

This matter came before the Court on the Memorandum of the Manville Personal Injury Settlement Trust (the "Trust") in support of the award of attorneys' fees and costs incurred by the Trust in connection with the civil contempt proceedings against James Walker (Walker).

Pursuant to this Court's May 13, 1991 Order, the Trust was awarded attorneys' fees and costs in the total amount of $52,085.30 in connection with the civil contempt of Walker. The

Trust was directed to submit to the Court an Affidavit concerning attorneys' fees and costs incurred after April 24, 1991. Pursuant to the Affidavit of May 24, 1991, signed by Steven H. Frankel, Esq., a copy of which was submitted with the Memorandum of the Trust in support of this Order and which itemizes the attorney fees and costs incurred by the Trust since April 24, 1991 (except for three hours which were inadvertently not billed on prior statements), the Court has determined that the Trust has incurred additional attorneys' fees in the amount of $18,504.00 and additional costs in the amount of $4,065.71 after April 24, 1991 in connection with the Walker civil contempt.

Based on the foregoing, the Court awards attorneys' fees and costs (in addition to the attorneys' fees and costs awarded pursuant to this Court's Order of May 13, 1991) in the additional amount of $18,504.00 in attorneys fees and in the additional amount of $4,065.71 in costs. Therefore, the total awards to the Trust pursuant to this Order and the Order of May 13, 1991 for attorneys' fees is $65,672.50 and for costs is $8,[illegible]82.51.

In addition, the Trust has submitted a Certificate of Service of Steven H. Frankel, Esq., reflecting that on April 30, 1991, he sent by telecopier and by Federal Express a copy of this Court's April 30, 1991 Order assessing a fine against Walker in the amount of $1,000 per day for each day he continued not to comply with Judge Jack B. Weinstein's April 24, 1991 Order. Judge Weinstein's Order directed Walker to dismiss certain judgments against Bankers Trust Company. The fine against Walker was to begin after service of this Court's April 30, 1991 Order was made upon Walker by telecopier, overnight mail or by personal service. The Trust has also submitted Orders showing that the judgments referred to in this paragraph were in fact dismissed on May 7, 1991. (The Trust has represented that Walker opposed the motions of dismissal filed by Bankers Trust Company.)

Therefore, Walker is hereby assessed a fine of $7,000 for seven days (May 1 through May 7, 1991) that he failed to comply with this Court's Order of May 13, 1991.

Dated: June 10, 1991
Brooklyn, New York

/s/ JOHN CADEN

United States Magistrate Judge